

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 8

REMARKS

This Amendment After Final Rejection is responsive to the Office Action identified above, and is responsive in any other manner indicated below.

REQUEST FOR EXAMINER INTERVIEW AFTER FINAL REJECTION

An Examiner Interview after final rejection is respectfully requested. As stated in MPEP §713.01, "Examiners may grant one interview after final rejection. See MPEP §713.09." MPEP §713.09, in turn, states, "Normally, one interview after final rejection is permitted." A substantial pendency period has already accumulated and substantial written prosecution has already been conducted in the application. At this point in time, an Examiner Interview appears to be the most logical and preferred method of further prosecution in the application, *i.e.*, an Examiner interview will accelerate prosecution by providing immediate discussion and feedback superior to the delayed discussion and feedback of normal intermittent written prosecution. Accordingly, Applicant respectfully submits the following reasons for requesting an Examiner interview. It is believed that the circumstance within the present case matches the validating circumstance for an Examiner interview as set forth in MPEP §713.01, *i.e.*, "...the nature of the case is such that the interview could serve to develop and clarify specific issues and lead to a mutual understanding between the Examiner and the Applicant, and thereby advance the prosecution of the application," in that: it is believed that an interview would accelerate early agreement on the claims; it is believed that an interview would assist Applicant in judging the extent of allowable subject matter in the application; and, it is believed that an interview would assist Applicant in judging the propriety and preferred mode of

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 9

continued prosecution of the non-allowed claims and/or the entire application. The Examiner is respectfully requested to telephone the undersigned at the local D.C. area number 703-312-6600 for the purpose of scheduling an Examiner Interview. The Examiner is thanked in advance for such considerations. Contact also will be attempted by the undersigned to schedule an Examiner Interview. In the event that the present papers, in and of themselves, are sufficient to place the application in condition for allowance, no Examiner Interview would be necessary.

This Request is being submitted in lieu of a Form PTO-413, Applicant Initiated Interview Request Form.

SPE REQUESTED TO ATTEND EXAMINER INTERVIEW

In view of the fact that the assigned Examiner is not of signatory authority, it is respectfully requested that the Examiner's Supervisory Primary Examiner (SPE) attend any Examiner Interview.

PENDING CLAIMS

Claims 1-7 were pending, under consideration and subject to examination in the Office Action. Appropriate claims have been amended in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is presently interested. At entry of this paper, Claims 1-7 remain pending for further consideration and examination in the application.

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 10

ALL REJECTIONS UNDER 35 USC §§102 AND 103 - TRAVERSED

All 35 USC rejections (*i.e.*, the 35 USC §102 rejection of Claims 1-4, 6 and 7 as being anticipated by Kori *et al.* (US 6,480,607 B1); and, the 35 USC §103 rejection of Claim 5 as being unpatentable over Kori *et al.* in view of Traw *et al.* (US 5,949,877 A)) are respectfully traversed.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

In order to properly support a §102 anticipatory-type rejection, any applied art reference must disclose each and every limitation of any rejected claim, and in order to properly support a §103 obviousness-type rejection, any applied art references must not only teach the invention, but also themselves contain the motivation for modifying the art to arrive at an approximation of the invention. The applied art does not adequately support a §102 anticipatory-type rejection or a §103 obviousness-type rejection because, at minimum, such applied art does not disclose (or suggest) the following discussed limitations of Applicant's claims.

It is respectfully submitted that it is critical to understand how Applicant's disclosed and claimed invention operates in order to understand that Applicant's invention is distinguished over the applied art. More particularly, attention is directed first to Applicant's FIGS. 1 & 2. Note within FIG. 1 that Applicant's data flow, encryption detection and watermark detection occur

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 11

substantially in parallel, and that the switch 30 is used to either pass or not-pass the data (see "Reproduction" column in FIG.2).

Because Applicant's encryption detection branch and watermark detection branch operate in parallel, decisions in EITHER BRANCH may be used to pass or not-pass the data. Hence, note the two (2) "Encryption System Detection" and "Watermark Detection" columns in FIG. 2. In the "Predetermined System" row, the encryption detection operation has detected that the medium's data is recorded with an expected (*i.e.*, "predetermined") encryption, and thus data passing (*i.e.*, reproduction) is allowed, IRRESPECTIVE of watermark detection (*i.e.*, the watermark detection operation is irrelevant).

More important to Applicant's claimed invention, is FIG. 2's bottom row. With this row, the encryption detection operation has detected that the medium's data is NOT recorded with an expected (*i.e.*, "predetermined") encryption. In this case, Applicant's watermark detection operation then decides whether data passing (*i.e.*, reproduction) is allowed. If a watermark IS DETECTED, data passing is DENIED; if a watermark IS NOT DETECTED, data passing is allowed. The important aspect to note with respect to the present discussions, is that Applicant's "Watermark Detection" operations operate IN CASES WHERE ENCRYPTION DETECTION DETECTS THAT A MEDIUM'S DATA IS NOT RECORDED WITH AN EXPECTED (*I.E.*, PREDETERMINED) ENCRYPTION.

Applicant's claims contain such feature/limitations. For example, Applicant's independent Claim 1 recites: an electronic watermark detection means for detecting an electronic watermark information indicative of a copy management information, including at least copy prohibition which is superimposed onto the video or audio

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 12

information, in a case where the video or audio information recorded in said storage medium is detected in said encryption system detection means as being not encrypted in accordance with the predetermined encryption system; and, a reproduction restricting means for controlling reproduction of the video or audio information in accordance with said copy management information, when any of the copy management information is detected upon a detection result by said watermark detection means, in a case where the video or audio information recorded in said storage medium is not encrypted in accordance with the predetermined encryption system.

[In the discussions to follow, it is assumed *arguendo* for purposes of discussion, that Kori *et al.* DOES teach some type of decryption arrangement.]

Turning now to rebuttal of the primary reference, it is respectfully noted that any decryption detection and watermark detection arrangements of the Kori *et al.* embodiments are ARRANGED IN SERIES. Because such arrangements are arranged in SERIES, it is respectfully submitted that Kori *et al.*'s arrangements could never meet or suggest Applicant's disclosed and claimed invention. More particularly, one only has to apply a CASE TO KORI ET AL. IN WHICH A MEDIUM'S DATA IS NOT RECORDED WITH AN EXPECTED (I.E., PREDETERMINED) ENCRYPTION.

More particularly, it is respectfully submitted that in such a case, Kori *et al.*'s "First CSS decoder 31" (or any other Kori *et al.* decryptor) would FAIL TO DECRYPT the unexpected encryption data. Since it would fail to decrypt properly, NO DECRYPTED DATA WOULD BE PASSED FORWARD BY KORI ET AL.'S SERIAL ARRANGEMENT. That is, the failed decryption would serve as a road-block along

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 13

Kori *et al.*'s serial processing path. If no decrypted data gets to be passed forward, Kori *et al.*'s "WM Decoding/Re-Encoding Unit" WOULD NOT BE ABLE TO OPERATE (*i.e.*, if it doesn't get the data, it can't detect a watermark therein). In short, Kori *et al.*'s watermark detection arrangement never gets to operate when unexpected encryption data is encountered.

The secondary Traw *et al.* reference does NOT cure this major deficiency mention above with respect to the primary Kori *et al.* reference.

In addition to the foregoing, the following additional remarks from Applicant's foreign representative are also submitted in support of traversal of the rejection and patentability of Applicant's claims.

The Office Action maintains an opinion that "Kori disclosed a data reproducing apparatus including an encryption means, that is, an encryption system detection, for encrypting the data reproduced by the reproducing means (column 5, lines 45-50)" (see, in the last paragraph on page 9 of the Office Action, for example).

However, as is clearly defined in Applicant's claims, Applicant's "encryption system detection means" is provided, not for encrypting the data reproduced by the producing means, but rather for detecting whether the video or audio information or signal reproduced is encrypted or not. Further, upon the result of this decision made within said encryption system detection means, the processing in the electronic watermark detection means is determined or switched *i.e.*, based upon detecting an electronic watermark information.

In contrast to the above, what is disclosed or taught in Kori *et al.* (U.S. Patent No. 6,480,607) is that the signal reproduced from the optical disk is encoded within the optical disk drive 20, in either one of the first CSS Encoder 21 or the second CSS

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 14

Encoder 22, and that they are guided and decoded within the first CSS Decoder 31 or the second CSS Decoder 32, automatically. In particular, in Fig. 4 thereof, there is no means for detecting whether the produced signal is encoded in which Encoder in the optical disk drive 20. And, the signal decoded, for example, in the first CSS Decoder 31, is supplied through the MPEG Decoding unit 33 to the WM Decoding/Re-encoding unit 35, but the processing therein is not changed nor switched depending upon the detection result of the fact that the signal supplied is encoded or not. That is, since there is no means for detecting whether the signal is an encrypted one or not. In other words, the Data Processing Device 30 shown in this reference is built up upon an assumption that the all signals inputted therein are encoded, automatically, such as, in the optical disc drive 20 shown therein, together.

In contrast, Applicant's present invention relates to a reproduction apparatus, in which storage media which are legally sold and distributed, or are legally recorded, can be reproduced therefrom, but any media illegally copied is rendered unable to be reproduced. Thus, Applicant's object and operations are different from those of Kori *et al.*

Further, in relation with the above, Office Action comments pointed out that "and the compressed picture data or compressed speech data, recorded on this optical disc D, is encrypted by a predetermined encryption key, that is "for detecting whether the video or audio information recorded in said storage medium is encrypted or not (column 2, lines 8-10)" in the same part of the Office Action. However, it is respectfully noted that the portion which the Examiner pointed out, *i.e.*, column 2, lines 8-10, relates only to Kori *et al.*'s prior art shown in Figs. 1 to 3, and the portion says only that "...to detect the information on whether the optical disc L1 reproduced

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 15

by the optical disc drive 101 is a ROM disc or a RAM disc....” Thus, this prior art shows only detecting the kind of the recording medium, but never teaches about detection as to whether the reproduced information is encrypted not. Nor does it forward such information for further processing it into the watermark detection processing.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §102 anticipatory-type rejection or §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §§102 and 103 rejections, and express written allowance of all of the rejected claims, are respectfully requested.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. Further, Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, *i.e.*, Applicant continues (Indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

Masaru TAKAHASHI *et al.*, SN 09/392,564
§116 Amdt. dated 27 April 2004
Reply to final OA dated 27 January 2004

520.37550X00/7276
Page 16

EXAMINER INVITED TO TELEPHONE

The Examiner is invited to telephone the undersigned at the local D.C. area number of 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

This §116 Amendment is being submitted within the shortened statutory period for response set by the final Office Action dated 27 January 2004, and is therefore timely, so no Petition or extension fee is required for entry of this paper. To whatever other extent is actually appropriate and necessary, Applicant petitions for an extension of time under 37 CFR §1.136. Please charge any shortage in actual fees due to ATSK Deposit Account No. 01-2135 (referencing case No. 520.37550X00).

Respectfully submitted,



Paul J. Skwierawski
Registration No. 32,173
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, Virginia 22209-3801, USA
Telephone 703-312-6600
Facsimile 703-312-6666